

REMARKS

1. Status of the Claims

Claims 1, 3-4 and 7-8 are herein amended. Claims 17-18 are newly added. Claims 1-18 are currently pending in the Application. The Applicant believes that the rejections contained in the Office Action have been overcome as discussed below.

2. Response to Claim Rejections

The Examiner rejected claims 1-10 and 12-16 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,010,922 ("Heller"). The Examiner rejected claim 11 also under 35 U.S.C. § 103(a) as being unpatentable over Heller in view of U.S. Patent No. 4,081,012 ("Wallace").

The Examiner bears the burden of establishing a *prima facie* case of obviousness. *In re Fritsch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). The "mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification." *In re Fritsch*, 972 F.2d at 1266. According to MPEP § 2144.03, "[i]t is never appropriate to rely solely on 'common knowledge' in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based." (See, *In re Zurko*, 258 F.3d 1379, 1385 (Fed. Cir. 2001)).

For the reasons detailed below, Applicant respectfully submits that there is not sufficient evidentiary support in the record to permit the Examiner to establish a *prima facie* case of obviousness for Applicant's amended claims. Applicant respectfully traverses the rejections and requests favorable reconsideration.

a. The Heller “Base” Does Not Rest Upon the Floor

Applicant submits that Heller does not teach, disclose, or suggest “a base having an aperture with internal threads, wherein the base may rest upon the floor” – as stated in Applicant’s amended claim 1. Applicant’s invention, though it may include protective floor pads, is directed towards a base that is intended to rest upon the floor. (See Applicant’s specification, page 5, lines 6-8). This provides for robust and simple support of the column, without the need for additional components supporting the base or column.

The Examiner equates this type of floor support base with the “base member 12” in Heller. (*Office Action*, page 2). However, the Heller “base member” serves a different purpose. The Heller base member serves to provide a connecting and pivot point between the column 10 and the separable legs 50 and is not intended to rest upon the floor during use. (Heller, Figure 1).

In Heller, the additional legs provide the floor support, not the base member. In fact, Heller specifically teaches away from a base which may rest upon the floor by describing that “the ends of the legs as they engage the support surface cause the center post to be lifted to an extent sufficient to keep the center post from resting on or engaging the support surface.” (Heller, col. 5, lines 37-41). Consequently, Applicant respectfully submits that amended claim 1 is not obvious in light of Heller.

Applicant point out that claims 2-18 depend from and include all of the limitations of claim 1. Therefore, these claims distinguish the cited reference for the same reasons discussed above with regard to claim 1. It is respectfully requested that the Examiner withdraw the rejections of claims 1-16.

b. Nonobviousness of the Radial Set Screw(s)

The Examiner states that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to have first and second set screws at both column ends.” (*Office Action*, page 3). The Examiner provides the rationale that such a modification “would provide thereof for superior mounting and to lock the column ends to the corresponding base and spider plate.” (*Office Action*, page 3). However, the Examiner does not disclose what objective evidence in the record supports this rationale, or more specifically, supports the desirability of having set screws in both column ends.

Furthermore, the Examiner does not address the element of Applicant’s claim 1 “wherein the set screw is oriented *radially* to the column end.” (Applicant’s claim 1, emphasis added). In contrast, Heller discloses an engagement system in which the set screw acts in a direction *axial* to the column. (Heller, Figure 2, emphasis added). None of the cited prior art suggests a radial orientation of the set screw, thereby dismissing the possibility that using a radial set screw to engage threaded spider plates and/or threaded base plates to a threaded central column is common knowledge or well known in the art. Consequently, Applicant respectfully submits that amended claim 1 is not obvious. Applicant point out that claims 2-18 depend from and include all of the limitations of claim 1. Therefore, these claims distinguish the cited reference for the same reasons discussed above with regard to claim 1. It is respectfully requested that the Examiner withdraw the rejections of claims 1-16.

c. Heller Does Not Disclose Unitary Structures

Applicant’s amended claims 3 and 7 and previously presented claim 16 require unitary structures for the base and the spider plate. The Examiner states that “Heller discloses a base ...

wherein the base and spider plate are unitary structures.” (*Office Action*, pages 2-3). However, the Examiner does not indicate where Heller describes or suggests such unitary structures.

Heller does not define any component or group of components as a spider plate. The Examiner equates the Heller “adapter support 22” with Applicant’s spider plate. (*Office Action*, page 2). However, the Heller adapter support does not perform the same functions as Applicant’s spider plate. Applicant’s “spider plate may directly receive a table top.” (Applicant’s claim 1). Heller discloses having to use an “adapter plate 30” in order to receive the table top onto the “adapter support 22.” (Heller, col. 3, lines 45-46; Figure 1). Applicant’s simple unitary spider plate serves to connect the column to the table top and requires no such multi-piece construction.

The same is true for the base. The Heller system supports the center column through a complex assembly of separable legs 50, separable pivot pins 44, and a separable adjustment screw 80. (Heller, Fig. 1). In contrast, Applicant’s claimed base supports the center column through a simple unitary structure without the need for separable components. Any legs shown by the Applicant are shown as unitary constructs. (Applicant’s Fig. 4). Further, the Applicant explicitly claims any support veins within the base as also being unitary to the base. (Applicant’s claim 3).

Because the Heller adapter support requires additional components to perform the same functions as the spider plate, and because the Heller base system is clearly not a unitary device, Applicant respectfully submits that claims 3, 7 and 16 are not obvious in light of Heller. As claims 4, 8, 17 and 18 ultimately depend from these claims, Applicant submits that claims 4, 8, 17 and 18 are also not obvious.

d. New Claims 17 and 18


Applicant has added claims 17 and 18 to clarify that any support veins or arms are unitary and are of substantially equal length. Applicant's Figure 3 shows unitary support veins, which comprise a portion of the base, to be of substantially equal length. Likewise, Applicant's Figure 6 shows a spider plate with arms of substantially equal length. Applicant submits that Heller does not teach, disclose, or suggest a base with unitary support veins of substantially equal length. Heller does describe separable support legs, but those are not support veins and are of unequal length. (*See Heller*, col. 4, lines 24-26). Similarly, Heller does not teach, disclose, or suggest a spider plate with unitary support arms of substantially equal length. The Examiner equates the Heller "adapter support 22" with Applicant's spider plate. (*Office Action*, page 2). However, the adapter support does not use substantially equal length arms to directly attach the table top; instead it uses an "adapter plate 30." Consequently, Applicant respectfully submits that claims 17 and 18 are not obvious in light of Heller.

CONCLUSION

In light of the above amendments and remarks, Applicant submits that claims 1-18 of the present application are in condition for allowance and respectfully requests notice to this effect. The Examiner is requested to contact Applicant's representative below if any questions arise or if he may be of assistance to the Examiner.

Respectfully submitted,
McDONNELL BOEHNEN
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Date: 3/24/06


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